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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Samuel Love,
Plaintiff,
v.
Ashford San Francisco II LP, a
Delaware Limited Partnership;
Defendants,

Case No.

**Complaint For Damages And
Injunctive Relief For
Violations Of: Americans With
Disabilities Act; Unruh Civil
Rights Act**

Plaintiff Samuel Love complains of Ashford San Francisco II LP, a Delaware Limited Partnership (“Defendants”), and alleges as follows:

PARTIES:

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic. He uses a wheelchair for mobility.
2. Defendant Ashford San Francisco II LP, a Delaware Limited Partnership owns and operates The Clancy, Autograph Collection Hotel located at 299 2nd St., San Francisco, California, currently and at all times

1 relevant to this complaint.

2 3. Plaintiff does not know the true names of Defendants, their business
3 capacities, their ownership connection to the property and business, or their
4 relative responsibilities in causing the access violations herein complained of,
5 and alleges a joint venture and common enterprise by all such Defendants.
6 Plaintiff is informed and believes that each of the Defendants herein, is
7 responsible in some capacity for the events herein alleged, or is a necessary
8 party for obtaining appropriate relief. Plaintiff will seek leave to amend when
9 the true names, capacities, connections, and responsibilities of other
10 Defendants are ascertained.

11 **JURISDICTION:**

12 4. The Court has subject matter jurisdiction over the action pursuant to 28
13 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with
14 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

15 5. Pursuant to supplemental jurisdiction, an attendant and related cause
16 of action, arising from the same nucleus of operative facts and arising out of
17 the same transactions, is also brought under California's Unruh Civil Rights
18 Act, which act expressly incorporates the Americans with Disabilities Act.

19 6. Venue is proper in this court pursuant to 28 U.S.C. § 1331(b) and is
20 founded on the fact that the real property which is the subject of this action is
21 located in this district and that Plaintiff's cause of action arose in this district.

22 **PRELIMINARY STATEMENT**

23 7. This is a lawsuit challenging the reservation policies and practices of a
24 place of lodging. Plaintiff does not know if any physical or architectural
25 barriers exist at the hotel and, therefore, is not claiming that that the hotel has
26 violated any construction-related accessibility standard. Instead, this is about
27 the lack of information provided on the hotel's reservation website that would
28 permit plaintiff to determine if there are rooms that would work for him.

1 8. After decades of research and findings, Congress found that there was
2 a “serious and pervasive social problem” in America: the “discriminatory
3 effects” of communication barriers to persons with disability. The data was
4 clear and embarrassing. Persons with disabilities were unable to “fully
5 participate in all aspects of society,” occupying “an inferior status in our
6 society,” often for no other reason than businesses, including hotels and
7 motels, failed to provide information to disabled travelers. Thus, Congress
8 decided “to invoke the sweep of congressional authority” and issue a “national
9 mandate for the elimination of discrimination against individuals with
10 disabilities,” and to finally ensure that persons with disabilities have “equality
11 of opportunity, full participation, independent living” and self-sufficiency.

12 9. As part of that effort, Congress passed detailed and comprehensive
13 regulations about the design of hotels and motels. But, as importantly,
14 Congress recognized that the physical accessibility of a hotel or motel means
15 little if the 61 million adults living in America with disabilities are unable to
16 determine which hotels/motels are accessible and to reserve them. Thus,
17 there is a legal mandate to provide a certain level of information to disabled
18 travelers.

19 10. But despite the rules and regulations regarding reservation procedures,
20 a 2019 industry article noted that: “the hospitality sector has largely
21 overlooked the importance of promoting accessible features to travelers.”

22 11. These issues are of paramount important. Persons with severe
23 disabilities have modified their own residences to accommodate their unique
24 needs and to ameliorate their physical limitations. But persons with disabilities
25 are never more vulnerable than when leaving their own residences and having
26 to travel and stay at unknown places of lodging. They must be able to ascertain
27 whether those places work for them.

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FACTUAL ALLEGATIONS:

12. Plaintiff planned on making a trip in February of 2021 to the San Francisco, California, area.

13. He chose The Clancy, Autograph Collection Hotel located at 299 2nd St., San Francisco, California because this hotel was at a desirable price and location.

14. Plaintiff needs an accessible guestroom. He needs clearance around beds, he needs accessible restroom facilities including accessible sinks, accessible tubs or showers and accessible toilets. He needs sufficient maneuvering clearance in and around the guestroom. He needs accessories to be located within an accessible reach range. In short, he benefits from and needs compliant accessible guestroom features.

15. Plaintiff went to The Clancy Autograph Collection Hotel reservation website at <https://www.marriott.com/hotels/travel/sfoaw-the-clancy-autograph-collection/> seeking to book an accessible room at the location on October 6, 2020.

16. Plaintiff found that there was little information about the accessibility of the rooms. For example, under the “Accessibility” tab, it mentions that the following are accessible: “Business Center”, “Concierge desk”, “Public Entrance”, “Registration Desk”, “Public Restrooms”, “Public entrance alternative”, “Elevators”, Accessible Self-parking”, “Bathroom grab bars”, “Bathtub grab bars”, “Roll-in shower”, “Shower wand, adjustable”, “Toilet seat at wheelchair height, “Vanities, accessible”. These are vague and conclusory statements. Likewise, under the various room descriptions, it mentions features such as: “This room type offers mobility accessible rooms”, “Accessible rooms with roll-in showers”, and “Accessible rooms with transfer showers.” These vague and conclusory statements offer little detail. For

1 example, there is no specific information on whether the desk/table in the
2 room is accessible, if the or if the sink and toilet are accessible, or if the room
3 has accessible clear floor space. Making matters worse, the pictures that
4 accompany the photos of the rooms state: "Images may not fully represent the
5 room features you booked."

6 17. The defendant's reservation system failed to identify and describe the
7 accessible features in the guestroom chosen by the plaintiff in enough detail to
8 reasonably permit him to assess independently whether the particular
9 guestroom met his accessibility needs. The photos that accompany those
10 rooms do not show any accessible features.

11 18. This lack of information created difficulty for the plaintiff and the idea
12 of trying to book this room -- essentially ignorant about its accessibility --
13 caused discomfort for the Plaintiff.

14 19. Plaintiff would like to patronize this hotel but is deterred from doing so
15 because of the lack of detailed information through the hotel's reservation
16 system. Plaintiff not only travels frequently but is always on the lookout for
17 businesses that violate the law and discriminate against him and other persons
18 with disabilities, intending to have them comply with the law and pay statutory
19 penalties.

20 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS
21 WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all
22 Defendants.) (42 U.S.C. section 12101, et seq.)

23 20. Plaintiff re-pleads and incorporates by reference, as if fully set forth
24 again herein, the allegations contained in all prior paragraphs of this
25 complaint.

26 21. Under the ADA, it is an act of discrimination to fail to make reasonable
27 modifications in policies, practices, or procedures when such modifications
28 are necessary to afford goods, services, facilities, privileges advantages or

1 accommodations to person with disabilities unless the entity can demonstrate
2 that taking such steps would fundamentally alter the nature of the those goods,
3 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §
4 12182(B)(2)(A)(ii).

5 22. Specifically, with respect to reservations by places of lodging, a
6 defendant must ensure that its reservation system, including reservations
7 made by “any means,” including by third parties, shall:

- 8 a. Ensure that individuals with disabilities can make
9 reservations for accessible guest rooms during the same
10 hours and in the same manner as individuals who do not
11 need accessible rooms;
- 12 b. Identify and describe accessible features in the hotels and
13 guest rooms offered through its reservations service in
14 enough detail to reasonably permit individuals with
15 disabilities to assess independently whether a given hotel
16 or guest room meets his or her accessibility needs; and
- 17 c. Reserve, upon request, accessible guest rooms or specific
18 types of guest rooms and ensure that the guest rooms
19 requested are blocked and removed from all reservations
20 systems.

21 *See 28 C.F.R. § 36.302(e).*

22 23. Here, the defendant failed to modify its reservation policies and
24 procedures to ensure that it identified and described accessible features in the
25 hotels and guest rooms in enough detail to reasonably permit individuals with
26 disabilities to assess independently whether a given hotel or guest room meets
27 his or her accessibility needs and failed to ensure that individuals with
28 disabilities can make reservations for accessible guest rooms during the same
hours and in the same manner as individuals who do not need accessible

1 rooms.

2 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**
3 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.
4 Code § 51-53.)

5 24. Plaintiff repleads and incorporates by reference, as if fully set forth
6 again herein, the allegations contained in all prior paragraphs of this
7 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, *inter alia*,
8 that persons with disabilities are entitled to full and equal accommodations,
9 advantages, facilities, privileges, or services in all business establishment of
10 every kind whatsoever within the jurisdiction of the State of California. Cal.
11 Civ. Code §51(b).

12 25. The Unruh Act provides that a violation of the ADA is a violation of the
13 Unruh Act. Cal. Civ. Code, § 51(f).

14 26. Defendants’ acts and omissions, as herein alleged, have violated the
15 Unruh Act by, *inter alia*, failing to comply with the ADA with respect to its
16 reservation policies and practices.

17 27. Because the violation of the Unruh Civil Rights Act resulted in difficulty
18 and discomfort for the plaintiff, the defendants are also each responsible for
19 statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

20 **PRAYER:**

21 Wherefore, Plaintiff prays that this Court award damages and provide
22 relief as follows:

23 1. For injunctive relief, compelling Defendants to comply with the
24 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the
25 plaintiff is not invoking section 55 of the California Civil Code and is not
26 seeking injunctive relief under the Disabled Persons Act at all.

27 2. Damages under the Unruh Civil Rights Act, which provides for actual
28 damages and a statutory minimum of \$4,000 for each offense.

1 3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant
2 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

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4 Dated: November 30, 2020

5 CENTER FOR DISABILITY ACCESS
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8 By: _____
9 Russell Handy, Esq.
10 Attorneys for Plaintiff
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